DETAILED ACTION

1. Claims 24-32 are presently pending. Claims 1-18 are cancelled. Claims 27-32 are newly added. Claims 19-23 are previously withdrawn.

Response to Arguments and amendments

Regarding the references failure to teach, claim 24, "selecting and addressing said first set of data packets for transmission at a first transmission time via a first channel of a transmission mode at a first frequency, and automatically attaching a first address to said first set of data packets," and "selecting and addressing said second set of data packets for transmission at a second transmission time via a second channel of the transmission mode at a second frequency, wherein the second transmission time is different from the first transmission time and the second frequency is different from the first frequency," argument is not persuasive because the cited portion of Kikinis **(col. 6 lines 28-38)** discloses **transmitting** "encrypted data" through modem and "decryption key" through digital link to satellite for faster transmission. If the encrypted data is transmitted via modem separately from the decryption that is transmitted via digital link, the address for modem that is different from the address for digital link is identified and selected first. If the data packets are not attaching different address, they would not know which path to go to. The invention of Kikinis regards faster data transmission by using two different links, i.e. internet communication system and satellite system. As disclosed **(on col. 2 lines 21-26 of Kikinis)** the "satellite system" having higher bandwidth comparing to "land based systems". Kikinis further discloses **(on col. 2 lines 54-67)** a data delivery system to transmit data to a user, a first link adapted to transmit data via a first delivery path and a second link adapted to transmit

data via a second delivery path to the user; and **the second delivery path having a broader bandwidth that the first delivery path. Col. 6 lines 22-38** of Kikinis discloses the satellite transmission being faster than the land-line. **Therefore the two different paths are not having same frequency.**

Regarding argument Kikinis failure to disclose transmitting the first set of data packet "at a first transmission time via the Internet," and transmitting the second set of data packets "at a second transmission time via the satellite delivery system, wherein the second transmission time is different from the first transmission time" is not persuasive. First, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Second, Kikinis discloses a data delivery system, comprising a server connected to data sources and adapted to transmit data to a user; a first link from the server adapted to transmit data to the user via a first delivery path; a second link from the server adapted to transmit data via a second delivery path to the user,.... For each data entity to be transmitted to the user, the transmission control routines select either the first path or the second path for transmission, based on size of the data entity and preprogrammed criteria. In a preferred embodiment the first path is a **land-based path**, and the second path is a satellite transmission path ***(see col. 2 lines 54-67).*** Kikinis **(on col. 3 lines 47-57)** discloses the land-based path being land based internet connection through a public-switched telephone network. Kikinis further discloses encrypting the data and transmitting a deciphering key to user by a separate path than the encrypted data is sent ***(see col. 3 lines 7-9).*** Kikinis

appropriately prepares encrypted data packet and key packet and delivers to requesting user device address **(see col. 6 lines 28-47).** If the encrypted data packet and key packet did not have address information attached to, they wouldn't have been delivered to the requesting user device. The encrypted data is delivered via different transmission path, if the data packets are not attaching address, they would not know which path to go to. Transmitting an encrypted content data packet with first address over a first path and transmitting a key that is used to encrypt the content having a second address via a different path with a transmission time that is different from the first e.g. in hours or days apart, is disclosed by Kamiya et al. **(see par. 0023-0025 and 0006-0012).**

Regarding argument "the office action fails to establish a prima facie case of obviousness" argument is not persuasive because sufficient motivation to combine is provided in the office action.

Regarding argument Kamay teaches away from making proposed combination with Kikinis argument is not persuasive because, Kamiya also teaches "a data delivery system" and security using two different transmission path **(see abstract and fig. 3).**

In response to applicant's argument that there is no reason/suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references are analogous in data transmission in two different paths.

2. Claims 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US Patent 6,289,389) in view of Kamiya et al. 2002/0106086 A1.

Regarding claims 24, 25 and 26 Kikinis discloses a method for requesting and securely receiving data from the Internet **(col. 2 lines 54-67 and fig. 3)**, said method comprising the steps of:

receiving a request for data **(col. 1, lines 5-10 and fig. 3, data requested by a user)**;

collecting data in response to said request **(col. 1, lines 5-10, data gathering site)**;

packetizing said collected data into at least two sets of data packets **(col. 6, lines 30-47, encrypted data and decryption key)**;

wherein a first set of data packets comprises encrypted data **(col. 6, lines 30-47, encrypted data)** and a second set of data packets comprises a key for decoding said encrypted data **(col. 6, lines 30-47, decryption key)** selecting and addressing said first set of data packets for transmission via a first channel of a transmission mode at a first frequency, and automatically attaching a first address to said first set of data packets **(see col. 3 lines 46-56, col. 3 lines 7-9, and col. 6, lines 30-47, through modem)**;

selecting and addressing said second set of data packets for transmission via a second channel of the transmission mode at a second frequency, wherein the second frequency is different from the first frequency **(see col. 3 lines 46-56, col. 3 lines 7-9, and col. 6, lines 30-47, through digital link to satellite)**;

transmitting said first set of data packets via said first channel **(col. 6, lines 30-47, through modem)**; and

transmitting said second set of data packets via said second channel **(col. 6, lines 30-47, through digital link to satellite)**.

- Kikinis fails to disclose first data packets for transmission at a first transmission time and a second set of data packets for transmission at a second transmission time wherein the second transmission time is different from the first transmission time.
- However transmitting a encrypted content data packet with first address over a first path via a first channel of a transmission mode and transmitting a key that is used to encrypt the content and has a second address via a different path channel of the transmission mode with a transmission time that is different from the first eg. in hours or days apart, is disclosed by Kamiya et al. **(see par. 0023-0025 and 0006-0012).** Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention was made to employ the teachings within the system of Kikinis because they are analogous in secure content distribution in different transmission channel. One would have been obvious to do so because it

would prevent hackers from intercepting the transmitted data and find all the information (key and content) in one single interception and retrieve data and would make it difficult to hackers to intrude transmitted data.

Regarding claims 27, 29 and 31, Kikinis teaches the method, wherein the transmission mode is a satellite delivery system comprised of a network processing center with an associated provider antenna and at least one subscriber terminal with an associated subscriber antenna **(see figs. 1-3).**

Regarding claims 28, 30 and 32, Kikinis teaches the method wherein the satellite delivery system further comprises a satellite **(see figs. 1-3).**

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Ichikawa: USPN 5872846 see for e.g. col. 2 lines 15-28. Possible 102 reference. Snowden et al. USPN 5974032 see col. 4 lines 32-41 and col. 7 lines 24-38. different frequency data transmission is well-known.**

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELENI A. SHIFERAW whose telephone number is (571)272-3867. The examiner can normally be reached on Mon-Fri 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser R. Moazzami can be reached on (571) 272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eleni A Shiferaw/
Primary Examiner, Art Unit 2436